

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 23, 1992

Reason for this Transmittal

- ☐ State Law Change
- ☐ Federal Law Change
- ☒ Court Order or Settlement Agreement
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by SDSS

ALL-COUNTY LETTER NO. 92-116

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: COURT ORDERED IMPLEMENTATION INSTRUCTIONS FOR CONCILIATION PROCEDURES IN
THE REFUGEE CASH ASSISTANCE (RCA) PROGRAMI. Background

On June 26, 1987, the Superior Court of the State of California issued an order in the case of Dang, et al. vs. McMahon, et al. requiring the Department of Social Services (DSS) to implement formal conciliation procedures for RCA and Refugee Demonstration Project (RDP) recipients who were found not to have good cause for nonparticipation/noncooperation in mandatory programs.

Beginning July 1, 1987, conciliation was provided to RCA and RDP recipients. However, until recently, there was no formal settlement of the case because the conciliation process did not meet with the approval of the plaintiffs' counsel, even though it complied with Federal conciliation guidelines.

On September 9, 1992, the Alameda County Superior Court approved a stipulated judgement in the case of Dang, et al. vs. McMahon, et al. that applies only to the current RCA program pursuant to Section 412(e) (7) of the Federal Immigration and Nationality Act (Section 1522 [e] [7] of Title 8 of the United States Code). The court order will not apply to the RDP since it was terminated as of April 1, 1990.

II. Program Changes

In accordance with the court order resulting from the settlement of the case, County Welfare Departments (CWDs) will implement, immediately, the following procedures for RCA recipients who are referred for good cause determinations. These procedures are being implemented by All-County Letter (ACL), rather than by amended regulations, because of deadlines imposed by the settlement agreement and the impending termination of the RCA program (effective January 31, 1993).

A. Good Cause Determinations

1. In each case in which information from RCA service providers or the Central Intake Unit (CIU) appears to indicate that good cause does not exist for an RCA recipient's refusal or failure to participate in an assigned RCA educational or training component, or to accept a job offer or referral, or to conduct job search, the CWD will conduct a face-to-face interview with the individual prior to making a good cause determination.
2. If the RCA recipient contacts the CWD worker prior to the scheduled cause determination interview to request a rescheduling, the individual will be permitted one reschedule of the interview. This rescheduled interview must take place within ten working days following the date that the CWD becomes aware of a recipient's failure to cooperate/participate, or within thirty days of the date that the recipient failed to cooperate/participate, whichever occurs first.
3. The CWD is permitted to conduct telephone interviews to accomplish the cause determination if the CWD determines it is appropriate and the recipient agrees. Language interpretation by the CWD, when needed, will be provided in accordance with Manual of Policies and Procedures (MPP) Section 21-115.
4. If the recipient does not keep the initial or rescheduled appointment for the cause determination interview, a cause determination will be made from available information.

B. Conciliation

1. If an RCA recipient contacts the CWD worker prior to the scheduled conciliation interview to request a rescheduling, the recipient will be permitted one reschedule of the interview. This rescheduled interview must take place within ten days following the date that the CWD becomes aware of a recipient's failure to cooperate/participate, or within thirty days of the date that the recipient failed to cooperate/participate, whichever occurs first.

2. The CWD is permitted to conduct the conciliation appointment by telephone if the CWD determines it is appropriate and the recipient agrees. Language interpretation by the CWD, when needed, will be provided in accordance with MPP Section 21-115.
3. The recipient attending the conciliation appointment or otherwise contacted by the CWD during conciliation will be informed of the right to request that a CWD supervisor review the determination of no good cause. Language interpretation by the CWD, when needed, will be provided in accordance with MPP 21-115.

C. Forms

1. Effective immediately, CWDs will discontinue the use of the Form RS 37 (Conciliation Letter) which is currently used to notify recipients of the successful completion of an RCA conciliation plan.
2. Form GAIN TEMP 43 (Notice of Participation Problem) was adapted by DSS for use by the CWDs to notify RCA recipients of this cause determination interview at the CWD. The form will state: 1) the specific program requirement that the recipient failed or refused to meet; 2) that the recipient has the right to provide an explanation for the noncooperation/nonparticipation at the good cause determination interview appointment; and, 3) what may constitute good cause.
3. Form GAIN TEMP 44 (Notice of No Good Cause Determination and Conciliation Appointment) was adapted by DSS for use by the CWDs to notify a recipient of a determination of no good cause and the beginning of conciliation. The form will state: 1) that a determination of no good cause has been made; 2) the problem that led to the determination; 3) that the recipient can correct the problem by meeting with the CWD and agreeing to and following a conciliation plan; 4) that the recipient can propose a counterplan if he/she does not agree with the CWD's proposed plan; 5) that the final plan will be developed during the conciliation interview; and, 6) that the recipient can obtain assistance in the conciliation process from both local legal services and welfare rights organizations.

Camera-ready copies of the adapted Form GAIN TEMP 43 and Form GAIN TEMP 44 will be provided to the counties when they are completed.

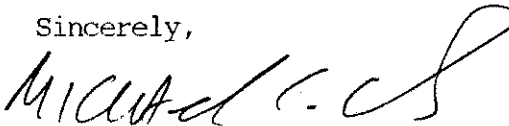
III. Other Requirements

By October 9, 1992, DSS was to send an ACL to remind CWDs of their obligations to comply fully with MPP Section 21-115. To fulfill this requirement, ACL No. 92-90, dated October 15, 1992, was issued and it included: 1) specific reference to MPP Section 21-115.16 regarding the use of interpreters provided by RCA applicants/recipients; and, 2) information on obtaining assistance in situations where counties experience difficulties in finding qualified interpreters.

If the RCA program were to be extended beyond September 30, 1993, other provisions of the settlement agreement would require DSS to submit requests for waivers to the federal Office of Refugee Resettlement (ORR) and advise counties of additional changes, if any, to be made in the RCA conciliation procedures as a result of ORR's response to the waiver requests. However, since the RCA program will discontinue prior to September 30, 1993, the submission of these waiver requests to ORR is no longer necessary.

If you have any questions regarding this letter, please contact your Refugee Operations Analyst at (916) 323-2131.

Sincerely,



MICHAEL C. GENEST
Deputy Director
Welfare Programs Division